designation for a portion of Kootenai County, Idaho, in 40 CFR 81.313 from unclassifiable to nonattainment.

Designated area	Designation date	Designation type	Classification date	Classification type
Kootenai County (part)—The County of Kootenai excluding that portion located within the exterior boundary of the Coeur d'Alene Indian Reservation.		Nonattainment	Proposing	Moderate.

EPA proposes that the Coeur d'Alene Indian Reservation be excluded from the nonattainment area because EPA currently has no evidence suggesting that air quality on the Reservation is in violation of the PM-10 NAAQS or that sources on the Reservation significantly contribute to PM-10 violations in nearby areas. Further, EPA's policy, which generally presumes PM-10 nonattainment boundaries to be concurrent with political boundaries, would weigh against including the Reservation as part of the Kootenai County nonattainment area or establishing the Reservation as its own nonattainment area in the absence of evidence that there is an air quality problem on the Reservation or that sources on the Reservation contribute significantly to violations on nearby State lands. Thus, EPA proposes, for purposes of this action, that the area of Kootenai County over which the State has regulatory authority govern the determination of political boundaries for the nonattainment area.4 EPA specifically requests the State of Idaho,

the Coeur d'Alene Tribe and the public to comment on the exclusion of the area within the exterior boundaries of the Coeur d'Alene Indian Reservation from the nonattainment area.

EPA notes that the State of Idaho and local governments in Kootenai County have made a joint commitment to develop and implement control measures for area sources of PM-10 in Kootenai County, such as agricultural field burning, open burning, residential woodburning and winter road sanding, beginning in September 1994 and no later than June 1995, regardless of EPA's final action on this proposed redesignation. EPA encourages the State to adopt any such control measures and submit them to EPA as part of the State Implementation Plan so that if they are federally approved, they will be federally enforceable. EPA will closely monitor the State's progress in curtailing PM-10 emissions and will consider such progress, any relevant submittals from the State and any federally-enforceable controls on PM-10 emissions in taking final action on this proposed redesignation.

The technical information supporting the redesignation request and the boundary selection are available for public review at the address indicated at the beginning of this notice.

IV. Implications of Today's Action

EPA is proposing to redesignate the County of Kootenai, excluding the area within the boundaries of the Coeur d'Alene Indian Reservation, from unclassifiable to nonattainment for PM-10. If Kootenai County, or a portion thereof, is redesignated nonattainment for PM-10 when EPA takes final action on today's proposal, then the area will be classified as "moderate" by operation of law (see section 188(a) of the Act). Areas designated nonattainment are subject to the applicable requirements of Part D, Title I of the Act. Within 18 months of the redesignation, the State would therefore be required to submit to EPA an implementation plan for the nonattainment area containing, among other things, the following provisions: (1) Provisions to assure that reasonably

available control measures (including reasonably available control technology) will be implemented within four years of re-designation, (2) a permit program meeting the requirements of section 173 of the Act governing the construction and operation of new and modified major stationary sources, (3) either a demonstration (including air quality modeling) that the plan will provide for attainment of the PM-10 NAAQS as expeditiously as practicable, but no later than the end of the sixth calendar year after the area's designation as nonattainment, or a demonstration that attainment by such date is impracticable, (4) quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1) of the Act, toward timely attainment, and (5) provisions to assure that the control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors, unless EPA determines that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area (see, e.g., sections 188(c), 189(a), 189(c), 189(e) & 172(c) of the Act). EPA has issued detailed guidance on the statutory requirements applicable to moderate PM-10 nonattainment areas (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992))

If EPA ultimately redesignates any area as nonattainment in taking final action on this notice, EPA will establish a date by which the State must submit the contingency measures required by section 172(c)(9) of the Act (see 57 FR 13498 at 13510-12 and 13543-44). Section 172(b) provides that such date shall be no later than three years from the date of the nonattainment designation. EPA believes that 18 months provides a reasonable amount of time for the development of contingency measures. Thus, if EPA finalizes a nonattainment designation for this area, EPA would likely establish a schedule requiring that contingency measures be submitted with the other Part D

⁴ Under Federal and EPA Indian policy, EPA treats Federally-recognized Indian tribes as sovereign authorities with the independent authority for Reservation affairs and not as political subdivisions of States. See April 29, 1994 Presidential Memorandum, "Government-to Government Relations with Native American Tribal Governments," 59 FR 22,951 (May 4, 1994); "EPA Policy for the Administration of Environmental Programs on Indian Reservations" at p. 2 (November 8, 1984), reaffirmed by Administrator Carol M. Browner in a Memorandum issued on March 14, 1994; and 54 FR 43956 (Aug. 25, 1994) ("Indian Tribes: Air Quality Planning and Management"). Before EPA will recognize a State's attempt to regulate sources within the exterior boundaries of a reservation for purposes of a Clean Air Act program, the State must affirmatively establish that it has the legal authority to regulate such sources. See, e.g., 42 U.S.C. § 7410(a)(2)(E)(i) (each implementation plan must provide necessary assurances that the State will have adequate authority under State law to carry out such implementation plan); 42 U.S.C. § 7661a(b)(5) (State must demonstrate that it has adequate authority to issue and enforce permits for all sources required to have a permit under Title V); see also Washington Department of Ecology v. EPA, 752 F.2d 1467, 1472 (9th Cir. 1985) (upholding EPA's finding that the State offered no independent authority for claiming jurisdiction over Tribal lands and affirming EPA's associated disapproval of that portion of the State RCRA program covering Tribal